

REMARKS

This Response is submitted in reply to the Office Action mailed on January 9, 2006. Claims 1-12, and 20 are pending in this application. Claim 8 has been amended to generally include limitations from original claim 11 conforming to the specification, claims 9 and 10 have been amended for dependency, claim 11 has been canceled, and claim 12 is amended to conform with the specification and with claim 8. Claims 13-19 were withdrawn pursuant to an election requirement, are hereby canceled, and are pending in U.S. patent application serial no. 11/288,482. Claim 20 is new and depends from claim 8. No new matter has been added by any of the amendments made herein.

Claims 1, 5, and 8 stand rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 6,467,711, to Michel. Claims 1, 5, and 7-11 stand rejected under 35 U.S.C. § 102 as being anticipated by U.S. Patent No. 6,793,168, to Pedersen. Claim 2 stands rejected under 35 U.S.C. § 103 as being obvious in light of the Michel patent, further in view of official notice of a shock absorber being elastomeric. Claim 11 stands rejected under 35 U.S.C. § 112 as failing to particularly point out and distinctly claim the subject matter, specifically finding a description of the detent structure confusing and/or unclear. Claim 12 stands objected to for informalities. The specification is objected to for failing to provided antecedent basis for “detent” and related structure and claimed in claims 11 and 12, as noted above. Claims 3-4, 6, and 12 are objected to as being dependent from a rejected base claim, but would be allowable if rewritten in independent form. Applicants respectfully submit that the rejections have been overcome or are improper for the reasons set forth below. Accordingly, Applicants respectfully request reconsideration of the patentability of claims 1-9, 11, and 12.

Claims 11 and 12 respectively are rejected under § 112 and objected to for informalities regarding the use of the term “detent” and related description, and the specification is objected to for a lack of antecedent basis for the offending claim limitations. The limitations of claim 12 original claim 11 have been amended to conform with the specification, though claim 11 is canceled and incorporated into claim 8. Accordingly, claims 8 and 12 include structure described more particularly in the specification, instead referring to “cooperating” structure. The specification describes the cooperation between structure on the shaft and on the blade assembly, fully supporting the claim amendments:

In assembly, the lower end of the shaft 70 is received in the cylindrical neck 97 of the blade assembly 90, the threads 72 on the shaft 70 threadedly engaging the internal threads 98 in the neck 97. When the parts approach full threaded engagement, which may be after about 1/2 turn, the tapered projections 78 on the shaft arms 77 enter the tapered seat 99 in the neck 97, compressing the arms 77 together until the projections 78 snap into the slot 99a. This resiliently holds the parts together and inhibits inadvertent unscrewing thereof.

Page 8, lines 6-11. Accordingly, it is believed that the objection to the specification, the rejection under § 112, and the objection for informalities indicated above are obviated or overcome.

Independent claim 1 and its dependent claim 5 are rejected as anticipated by the Michel patent. The Michel patent describes a food chopper having an actuation mechanism 9 including a plunger 11 in the form of a shaft rigidly secured with a cap 40. At a lower end of the plunger 11 is a knife holder 17 for chopping food located in a lower part 3 of a housing 1. The actuation mechanism and plunger are reciprocated through an upper part 2 of the housing 1 to effect the chopping. With specific reference to Fig. 1, the Michel patent includes a structure described as a shock absorber 18. This shock absorber 18 is disposed around the shaft of the plunger 11, above the knife holder 17, and below a base 5 of the housing upper part 2.

Claim 1 requires “a shock absorber disposed between the plunger assembly and the shaft.” This allows the shock absorber to cushion *downward* movement of the plunger assembly. This feature is not taught or suggested by the Michel patent, which shows the shock absorber around the shaft of the plunger. This is confirmed by U.S. patent no. 4,967,970, also to Michel, which shows the identical structure as it pertains to the cited Michel patent. Specifically, the ‘970 patent states that the shock absorber 18 is “between the knife holder 17 and the chamber base.” Col. 2, lines 33-34. Clearly, the Michel patent fails to teach every limitation of and, therefore cannot anticipate, claim 1 or its dependents. Accordingly, withdrawal of this rejection is respectfully requested.

Claim 1 and its dependent claims 5 and 7 are also found to be obvious under 35 U.S.C. § 103, in view of the Michel patent and further in view of the Pedersen patent. A rejection under § 103 is proper when every limitation of a claim is not taught by a single reference, making such rejection incongruous with the previously addressed rejection based on § 102. Nonetheless, the combination of the Michel and Pedersen patents fails to make the claim obvious.

Specifically, it is acknowledged in the Office Action that Pedersen does not show a shock absorber, instead relying on the Michel patent for this. Due to its construction, the shock absorber of the Michel patent shows reducing shock as a result of *upward* movement, such as would occur from the knife holder 17 striking the chamber base 5. The present claimed shock absorber reduces shock occurring from a *downward* stroke. Pedersen is directed toward a condiment grinder and, indeed, does not teach or suggest a shock absorber. As such, Pedersen cannot teach or suggest an alternate construction for including a shock absorber, such as the location and position of the claimed shock absorber, and moreover does not augment the teaching of the use of the claimed shock absorber for reducing shock due to a downward stroke.

Accordingly, the Pedersen and Michel patents, in combination or otherwise, fail to teach the limitations of claim 1, and withdrawal of this rejection is respectfully requested for claim 1 as well as its dependent claims.

Claim 2 is rejected as obvious under the Michel patent with official notice of elastomeric material for a shock absorber. As the Michel patent fails to anticipate or make obvious claim 1, it cannot make obvious claim 2 which depends from claim 1. Again, withdrawal of this rejection is requested.

Claim 8 is also rejected as being anticipated by the Michel patent, as well as obvious in view of the Michel and Pedersen patents. Claim 8 has been amended to include the limitations of originally filed claim 11, amended to conform to the specification. Specifically, claim 8 requires “cooperating structure on the shaft and on the blade assembly for indicating when the shaft has been threadedly engaged with the blade assembly in a mounted condition.” The Michel patent teaches no threaded connection between the plunger and the knife holder or assembly, and does not anticipate this limitation. Pedersen merely teaches threading the shaft into the grinder. As there is no teaching or suggestion of the “cooperating structure,” as defined, these patents alone or in combination, cannot make these limitations obvious. For at least these reasons, the rejections of claim 8, and any rejections of its dependent claims 9-12, should be withdrawn.

Furthermore, at least for the reasons described for claim 8, it is believed that new claim 20 is allowable.

In light of the above, Applicants respectfully submit that claims 1-12 and 20 are patentable over the art which does not disclose, teach or suggest all the elements of the claimed invention. Accordingly, Applicants respectfully request that claims 1-12 and 20 be deemed allowable at this time and that a timely Notice of Allowance be issued in this case.

If any other fees are due in connection with this application, the Patent Office is authorized to deduct the fees from Deposit Account No. 19-1351. If such withdrawal is made, please indicate the attorney docket number (441900-37787) on the account statement.

Respectfully submitted,

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